

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Case No. 2:17-CR-405 JCM (VCF)

Plaintiff(s),

ORDER

V.

JERRY LEE EDWARDS,

Defendant(s).

Presently before the court is the matter of *USA v. Edwards*, case no. 2:17-cr-00405-JCM-VCE-1.

On November 28, 2018, defendant Jerry Edwards (“defendant”) filed the instant motion requesting that the court order a pre-plea presentence report pursuant to Federal Rule of Criminal Procedure 32. (ECF No. 35). *See also Gregg v. United States*, 394 U.S. 489, 491 (1969) (noting that the language of Rule 32 “clearly permits the preparation of a presentence report before guilty plea or conviction . . .”) (emphasis added). In support of his motion, defendant explains that it would benefit him to know what his sentencing guideline range will be prior to pleading guilty in this criminal action. (ECF No. 35 at 3).

3

• • •

On December 11, 2018, the government filed a response to the motion. (ECF No. 38). In its response, the government states, in pertinent part, as follows:

The government has informed counsel for the defendant that the calendar call in this matter is presently scheduled for January 2, 2019, and that any pre-plea presentence investigation report would likely not be completed prior to that date. Additionally, undersigned counsel for the government has advised counsel for the defendant that the government will not agree to another continuance of the trial date, and that if the defendant intends to plead guilty, defense counsel needs to obtain the defendant's signature on the proposed plea agreement that the undersigned provided to defense counsel on March 19, 2018 (and again on November 13, 2018).

Id. at 1 (emphasis omitted).

The government further noted that trial in this case has been continued four times, and the government “expects to be prepared to proceed to trial at the next setting if the defendant does not plead guilty.” *Id.* at 2.

As the government correctly notes, the approximately three-week period between the date of this order and the time set for trial in this matter is insufficient to allow the probation office to conduct its investigation and prepare a presentence report. Moreover, defendant has not provided any authority mandating that he is entitled to his request. *See* (ECF No. 35). Therefore, defendant's motion is denied.

Accordingly,

IT IS HEREBY ORDERED that defendant Jerry Edwards' motion for a "pre-plea presentence report" (ECF No. 35) be, and the same hereby, is DENIED.

DATED December 18, 2018.

James C. Mahan
UNITED STATES DISTRICT JUDGE